

**FINDINGS AND DETERMINATION OF THE COMMISSIONER  
PURSUANT TO [IC 13-14-9-7](#) AND SECOND NOTICE OF COMMENT PERIOD**  
LSA Document #13-215

**SEWAGE SLUDGE INCINERATORS AND CARBON MONOXIDE MONITORING****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for an amendment concerning sewage sludge incinerators and carbon monoxide (CO) monitoring. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 3-5-1](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

**STATUTORY REQUIREMENTS**

[IC 13-14-9-7](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by [IC 13-14-9-7](#), the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-7](#).

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under ([IC 13-14-9-3](#))... would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

**BACKGROUND**

IDEM recently adopted federal standards for sewage sludge incineration for existing units (40 CFR 60, Subpart MMMM) at [326 IAC 11-10](#) and new and modified units (40 CFR 60, Subpart LLLL) at [326 IAC 12](#). IDEM incorporates by reference all new source performance standards (NSPS) at [326 IAC 12](#). Both of these rules require monitoring for carbon monoxide (CO) with the standard for existing units requiring an annual CO test and the NSPS requiring continuous emissions monitoring (CEM) for CO. CEM requirements for sewage sludge incineration units at [326 IAC 4-5-1\(b\)\(6\)](#) require total hydrocarbon (THC) monitoring. In addition, similar requirements are set forth in federal Clean Water Act rules at 40 CFR 503 (Standards for the Use or Disposal of Sewage Sludge). The federal rule at 40 CFR 503, Subpart E requires THC monitoring unless the stack is monitored continuously for CO. According to the preamble of 40 CFR 60, Subpart MMMM and Subpart LLLL (October 14, 2010, 75 Federal Register (FR) 63260) CO monitors cost less and are easier to maintain and keep on-line than THC monitors.

In this rulemaking, IDEM is proposing to adopt language that allows CEM monitoring for THC or CO similar to the language that is provided in federal rules at 40 CFR 503, Subpart E. This option is necessary now that 40 CFR 60, Subpart MMMM and Subpart LLLL require monitoring for CO and not THC. Adoption of such language will ensure that compliance with all applicable requirements is achieved in the most efficient way possible and is consistent with federal requirements. IDEM is requesting comment on the proposed amendments and any other provisions of Title 326 that may be affected by this rulemaking.

**[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

**Potential Fiscal Impact**

There is no negative fiscal impact associated with this rulemaking. This rulemaking will reduce costs for sewage sludge incinerator operators that are required to monitor CO under the sewage sludge incineration NSPS because they will no longer have to monitor for both THC and CO.

**Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Susan Bem, Rule Development Section, Office of Legal Counsel at (317) 233-5697 or (800) 451-6027 (in Indiana).

#### **Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin  
IDEM Small Business Regulatory Coordinator  
MC 60-04 IGCS W041  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8172 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Eric P. Shields  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 234-3997  
[smallbizombudsman@iedc.in.gov](mailto:smallbizombudsman@iedc.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn  
IDEM Small Business Assistance Program Ombudsman  
MC 50-01 IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 234-3386 or (800) 451-6027  
[bbaughn@idem.in.gov](mailto:bbaughn@idem.in.gov)

#### **FINDINGS**

The commissioner of IDEM has prepared written findings regarding a rulemaking to amend continuous monitoring requirements concerning sewage sludge incinerators. These findings are prepared under [IC 13-14-9-7](#) and are as follows:

- (1) This rulemaking is consistent with federal requirements for sewage sludge incineration.
- (2) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (3) The draft rule is hereby incorporated into these findings.

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Thomas W. Easterly  
Commissioner  
Indiana Department of Environmental Management

#### **REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:  
LSA Document #13-215 Sewage Sludge Incineration CO CEMS  
Susan Bem  
Rule Development Section/Office of Legal Counsel

Indiana Department of Environmental Management  
100 North Senate Avenue  
Mail Code 61-49  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rule Development Section at (317) 233-8903.

(3) By electronic mail to [sbem@idem.in.gov](mailto:sbem@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

#### COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped no later than July 5, 2013. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Susan Bem, Rule Development Section, Office of Legal Counsel, (317) 233-5697 or (800) 451-6027 (in Indiana).

#### DRAFT RULE

SECTION 1. [326 IAC 3-5-1](#) IS AMENDED TO READ AS FOLLOWS:

#### [326 IAC 3-5-1](#) Applicability; continuous monitoring requirements for applicable pollutants

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-14-4-3](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to the following sources or emissions units to determine compliance with an emission limitation or standard:

- (1) Any emissions unit required to perform continuous monitoring under [326 IAC 12](#).
- (2) Fossil fuel-fired steam generators of greater than one hundred million (100,000,000) British thermal units (Btu) per hour heat input capacity.
- (3) Sulfuric acid plants of greater than three hundred (300) tons per day acid production capacity.
- (4) Petroleum refinery catalyst regenerators for fluid bed catalytic cracking units of greater than twenty thousand (20,000) barrels or eight hundred forty thousand (840,000) gallons per day fresh feed capacity.
- (5) Portland cement plants.
- (6) Sources or emissions units that combust sewage sludge.
- (7) Sources or emissions units making coke from raw materials, including the following:
  - (A) Coal refining byproducts.
  - (B) Petroleum refining byproducts.
- (8) Emissions units in Clark and Floyd Counties that:
  - (A) have potential to emit nitrogen oxides (NO<sub>x</sub>) of greater than or equal to forty (40) tons per year; and
  - (B) are located at sources that have potential to emit NO<sub>x</sub> of greater than or equal to one hundred (100) tons per year as described in [326 IAC 10](#).
- (9) Any emissions unit required to monitor under subsection (c).

(b) Owners and operators of sources or emissions units described in subsection (a) are subject to the following requirements:

- (1) Any emissions unit subject to [326 IAC 12](#) shall comply with the following:
  - (A) The monitoring and reporting requirements as specified for the applicable rule.
  - (B) All requirements of this rule.
- (2) The owner or operator of a fossil fuel-fired steam generator of greater than one hundred million (100,000,000) Btu per hour heat input capacity shall continuously monitor the following:
  - (A) Opacity, unless one (1) of the following occurs:
    - (i) Gaseous fuel is the only fuel combusted.
    - (ii) Oil or a mix of gas and oil are the only fuels combusted and the emissions unit is able to comply with both of the following rules without using particulate matter collection equipment:

(AA) [326 IAC 5-1](#).

(BB) [326 IAC 6-2](#).

(iii) An alternative monitoring requirement request has been granted by the department and approved by U.S. EPA. The owner or operator may request an alternative monitoring requirement when installation of an opacity monitoring system would not provide accurate determinations of emissions as a result of interference from condensed uncombined water vapor. Any alternative monitoring requirement request shall address the following:

(AA) Information pertaining to the inability of the affected emissions unit to find an acceptable monitoring location prior to the source of the condensed, uncombined water vapor.

(BB) A list of proposed alternative monitoring requirements. For each proposed alternative monitoring requirement, the request must provide a detailed description of thresholds or triggers for corrective action resulting from deviation from normal operating parameters and how deviations from key surrogate parameters shall be addressed to ensure continuous compliance with all applicable particulate and opacity requirements. An example of an acceptable alternative monitoring requirement is a particulate compliance demonstration that is performed at least annually, in accordance with [326 IAC 3-6](#) and a compliance monitoring plan that, at a minimum, satisfies monitoring requirements under [326 IAC 2-7](#) or [326 IAC 2-8](#).

(CC) Record keeping that is consistent with section 6 of this rule.

(DD) Reporting frequency that is no less frequent than that required in section 7 of this rule.

(iv) An alternative monitoring requirement request granted by the department under item (iii) shall be submitted to U.S. EPA as a state implementation plan (SIP) revision and shall not be in effect until approved as a SIP revision.

(B) Sulfur dioxide (SO<sub>2</sub>) under the following conditions:

(i) SO<sub>2</sub> pollution control equipment has been installed.

(ii) A monitor is required to determine compliance with either:

(AA) [326 IAC 12](#); or

(BB) a new construction permit or operating permit required under [326 IAC 2](#).

(C) Nitrogen oxide (NO<sub>x</sub>) under the following conditions:

(i) NO<sub>x</sub> pollution control equipment has been installed.

(ii) A monitor is required to determine compliance with either:

(AA) [326 IAC 12](#); or

(BB) a new construction permit or operating permit required under [326 IAC 2](#).

(D) The percent oxygen (O<sub>2</sub>) or carbon dioxide (CO<sub>2</sub>) if measurements of O<sub>2</sub> or CO<sub>2</sub> in the flue gas are required to convert either SO<sub>2</sub> or NO<sub>x</sub> continuous monitoring data, or both, to units of the emission limitation for the particular emissions unit.

(3) Sulfuric acid plants of greater than three hundred (300) tons per day acid production capacity shall monitor SO<sub>2</sub> for each sulfuric acid producing emissions unit within the source.

(4) Petroleum refinery catalyst regenerators for fluid bed catalytic cracking units of greater than twenty thousand (20,000) barrels or eight hundred forty thousand (840,000) gallons per day fresh feed capacity shall monitor opacity for each regenerator within the source.

(5) Portland cement plants shall monitor opacity at the following emissions units:

(A) Kilns.

(B) Clinker coolers.

(6) Sources or emissions units that combust sewage sludge shall monitor from the effluent gas exiting the incinerator the following:

(A) Total hydrocarbons, **unless the following conditions are met:**

**(i) The exit gas from the sewage sludge incinerator stack is monitored continuously for carbon monoxide (CO).**

**(ii) The monthly average concentration of CO in the exit gas from the sewage sludge incinerator stack, corrected for zero percent (0%) moisture and to seven percent (7%) oxygen, does not exceed one hundred (100) parts per million on a volumetric basis.**

(B) Oxygen.

(C) Moisture, unless an alternative method is approved by the department and the U.S. EPA.

(D) Temperature.

(7) Sources or emissions units making coke from coal shall monitor opacity on the underfire stack associated with each coke oven battery.

(8) Emissions units in Clark and Floyd counties that have potential to emit NO<sub>x</sub> greater than or equal to forty (40) tons per year and are located at sources that have potential to emit NO<sub>x</sub> greater than or equal to one hundred (100) tons per year shall install NO<sub>x</sub> continuous emission monitors as described in [326 IAC 10-1](#).

(c) Upon approval by the department, the owner or operator of an emissions unit required to continuously monitor opacity under this section may be exempted from the requirement to install, certify, and operate a COMS if:

- (1) a particulate CEMS for measuring PM emissions is used to demonstrate continuous compliance with any applicable emissions limitation; and
- (2) the particulate CEMS is installed, certified, operated, and maintained on the affected source in accordance with the requirements of Performance Specification 11 (PS-11)\* and Procedure 2 of 40 CFR 60, Appendix F\*.

(d) The department may require, as a condition of a construction or operating permit issued under [326 IAC 2-1.1](#), [326 IAC 2-2](#), [326 IAC 2-3](#), [326 IAC 2-7](#), [326 IAC 2-8](#), or [326 IAC 2-9](#) that the owner or operator of a new or existing source of air emissions monitor emissions to ensure compliance with the following:

- (1) An emission limitation or standard established in one (1) of the permits listed in this subsection.
- (2) Permit requirements.
- (3) Monitoring requirements in [326 IAC 7](#).

(e) Unless explicitly stated otherwise, nothing in this rule shall:

- (1) excuse the owner or operator of a source or emissions unit from any monitoring, record keeping, or reporting requirement that applies under any provision of the CAA or state statutes or rules; or
- (2) restrict the authority of the department to impose additional or more restrictive monitoring, record keeping, testing, or reporting requirements on any owner or operator of a source or emissions unit under any other provision of the CAA, including Section 114(a)(1), or state statutes or rules, as applicable.

(f) All continuous monitoring systems shall be installed and operational and have the certification testing complete under section 3 of this rule within one hundred eighty (180) days of start-up of the emissions unit.

\*These documents are incorporated by reference. Copies of these documents may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, **Legal Counsel**, Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Division; [326 IAC 3-5-1](#); filed Jan 30, 1998, 4:00 p.m.: 21 IR 2064; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1596; errata filed Jan 7, 2002, 2:20 p.m.: 25 IR 1644; filed Aug 11, 2011, 1:54 p.m.: [20110907-IR-326050330FRA](#))

#### [Notice of Public Hearing](#)

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